

**In the Matter of**

Case No.: 5:23-cv-01540-GTS-ML

HUNTER, et al.

v.

CORTLAND HOUSING AUTHORITY, et al.

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**Deposition of Carole Preston**

*Wednesday, May 8, 2024*

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF NEW YORK  
Case No.: 5:23-cv-01540-GTS-ML

-----X

ROBERT HUNTER, ELMER IRWIN,  
DOUG MERRIN, and THE SECOND  
AMENDMENT FOUNDATION,

Plaintiffs,

CORTLAND HOUSING AUTHORITY and  
ELLA M. DIORIO, personally  
and in her official capacity  
as Executive Director of  
CORTLAND HOUSING AUTHORITY,

Defendants.

-----X

May 8, 2024  
1:10 p.m.

Examination of CAROLE PRESTON, held pursuant  
to Subpoena, held via Zoom conference, before  
Ruthayn Shalom, a shorthand Reporter and Notary  
Public within and for the State of New York.

HUNTER, et al. v. CORTLAND HOUSING AUTHORITY, et al.  
Carole Preston --- May 8, 2024

2 A P P E A R A N C E S :

3 BOCHNER PLLC  
4 Attorneys for Plaintiffs  
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6 New York, New York 10018  
7 BY: EDWARD PALTZIK, ESQ.  
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9 TOWNE LAW FIRM P.C.  
10 Attorneys for Defendants  
11 500 New Kramer Road  
12 Albany, New York 12212  
13 BY: MARK T. HOUSTON, ESQ.  
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14  
15 ALSO PRESENT:  
16 Serge Krimnus, Esq., Bochner PLLC  
17 Meredith Lloyd, Esq., Bochner PLLC  
18  
19  
20  
21  
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HUNTER, et al. v. CORTLAND HOUSING AUTHORITY, et al.  
Carole Preston --- May 8, 2024

2 IT IS HEREBY STIPULATED AND AGREED, by  
3 and between the attorneys for the respective  
4 parties hereto, that this examination may be  
5 sworn to before any Notary Public.

6

7 IT IS FURTHER STIPULATED AND AGREED that  
8 the sealing and filing of the said examination  
9 shall be waived.

10

11 IT IS FURTHER STIPULATED AND AGREED that  
12 all objections to questions except as to form  
13 shall be reserved for trial.

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HUNTER, et al. v. CORTLAND HOUSING AUTHORITY, et al.  
Carole Preston --- May 8, 2024

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C. Preston

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C A R O L E P R E S T O N , having

3

been first duly sworn by Ruthayn Shalom, a Notary  
Public of the State of New York, and stating her  
address as [REDACTED]

5

[REDACTED], was examined and testified as follows:

7

EXAMINATION BY

8

MR. PALTZIK:

9

Q Good afternoon again, Ms. Preston. How  
are you today?

11

A I'm fine. How are you?

12

Q I'm good. Just a few ground rules before  
we get started. Please make sure you provide  
complete answers that encompass all of your  
knowledge on each question. Feel free to pause and  
take your time and don't speculate.

17

A Okay.

18

Q You're welcome to take a break. If there  
is a pending question, just try and answer the  
question before we take a break. Also just try and  
make sure that in addition to providing truthful  
answers, the court reporter can hear everything.  
Also if you feel at any point you misspoke or made a  
mistake, please feel free to point it out and  
correct it later.

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HUNTER, et al. v. CORTLAND HOUSING AUTHORITY, et al.  
Carole Preston --- May 8, 2024

36

1 C. Preston

2 see what the objection can be. Dangerous is a  
3 common word.

4 MR. HOUSTON: What are you referring to?

5 MR. PALTZIK: Crime.

6 MR. HOUSTON: Criminal danger?

7 MR. PALTZIK: Yes, fine, fine. That's  
8 fair. That's my fault.

9 BY MR. PALTZIK:

10 Q I'm not talking about slipping on the ice  
11 in January, I'm not talking about failing roof  
12 shingles, I'm talking about crime.

13 In your experience at CHA, was public  
14 housing dangerous?

15 A Sometimes.

16 Q Can you elaborate, please?

17 A Well, it would depend on specific tenants  
18 and situations, I suppose.

19 Q Can you talk about those situations?

20 A Well, I don't know if I have anything  
21 specific that comes to mind. There would be  
22 families that would fight amongst themselves and we  
23 had elder abuse. We had adult children that were  
24 abusing their parents and attorneys had to step in  
25 and get an order of protection, so yes, there were

HUNTER, et al. v. CORTLAND HOUSING AUTHORITY, et al.  
Carole Preston --- May 8, 2024

37

1 C. Preston

2 situations that were dangerous.

3 Q Did you ever observe any crimes at CHA  
4 properties?

5 A Such as?

6 Q Not such as anything. I'm asking for what  
7 you observed, if anything.

8 MR. HOUSTON: Objection to form. I think  
9 she's asking for, what do you mean by crime?

10 BY MR. PALTZIK:

11 Q I'm asking if you ever personally observed  
12 criminal activity at a CHA property.

13 A I don't know if I personally observed it,  
14 but I know of cases where we have had break-ins and  
15 we had that sort of thing.

16 Q How do you know of these cases?

17 A Because I was the manager and I was privy  
18 to lots of information.

19 Q Okay. How many different -- how many  
20 separate incidents of criminal activity were brought  
21 to your attention while you were employed at CHA?

22 A I couldn't even venture to guess. I was  
23 there for almost 20 years. We didn't have a ton.  
24 There wasn't a ton of violence as far as -- that  
25 would have been reported to us. There may have been

HUNTER, et al. v. CORTLAND HOUSING AUTHORITY, et al.  
Carole Preston --- May 8, 2024

38

1 C. Preston

2 things that happened where the police were called  
3 and we weren't a part of it. Does that make sense?

4 Q Yes. Everything you're saying makes  
5 sense.

6 Let's try and estimate here. As  
7 manager at CHA -- and again, we are going to get to  
8 that, but as the manager at CHA, it was part of your  
9 job responsibilities to receive and assess reports  
10 of criminal activities; is that fair?

11 A No. I don't think that's fair.

12 Q Correct me, please.

13 A So it could have been reported to the  
14 director and then it was maybe given to me to --  
15 maybe as simple as send the tenant a letter to  
16 explain the lease violation or something like that.

17 Q Did you ever receive a report of a  
18 robbery?

19 A Not a robbery, no.

20 Q Did you ever receive a report of a murder?

21 A No.

22 Q Did you ever receive a report of a  
23 burglary?

24 A We had somebody that actually got into our  
25 building and stole something from one of the

HUNTER, et al. v. CORTLAND HOUSING AUTHORITY, et al.  
Carole Preston --- May 8, 2024

39

1 C. Preston

2 offices.

3 Q What happened in that incident?

4 A It was a man that was homeless and somehow  
5 he managed to get into the building and -- while we  
6 were at night, and was able to get into the office  
7 and steal a lamp.

8 Q He was arrested?

9 A I don't know. I don't remember. I don't  
10 recall.

11 Q Did you ever see a report of an assault?

12 A Family disputes but I don't know if I  
13 would label it an assault.

14 Q Well --

15 A Because an assault to me would be, like,  
16 somebody attacking somebody out on the street.

17 Q No. Assault includes domestic violence.

18 A Then, yes.

19 Q In your 20 years, did you ever receive  
20 reports of domestic violence?

21 A Yes.

22 Q A lot?

23 A No, not a lot. I would say -- I don't  
24 know. Maybe half a dozen to a dozen cases.

25 Q Over your entire time?

HUNTER, et al. v. CORTLAND HOUSING AUTHORITY, et al.  
Carole Preston --- May 8, 2024

40

1 C. Preston

2 A Yes, but it's hard to really estimate when  
3 I have been out of it for a while.

4 Q During your 20 years, did you ever receive  
5 a report of an assault that occurred outside of the  
6 home?

7 A None come to mind.

8 Q During your 20 years, did you ever receive  
9 reports of theft?

10 A Yes.

11 Q How often?

12 A Again, it would be maybe a dozen or so.

13 Q Did you ever receive reports of violence  
14 or violent activity or violent incidents?

15 A Yes, and they were the domestic disputes.

16 Q As part of your job as manager at CHA, did  
17 you routinely interact and communicate with the  
18 local police department?

19 A Occasionally.

20 Q What police department was that?

21 A Cortland City Police.

22 Q Do you believe that public housing tenants  
23 should have the right to self-defense against crime  
24 and violence on public housing property?

25 A Yes, I believe that.

HUNTER, et al. v. CORTLAND HOUSING AUTHORITY, et al.  
Carole Preston --- May 8, 2024

41

1 C. Preston

2 Q What would be the nature of that  
3 self-defense? Do you believe they have the right to  
4 defend themselves with their hands?

5 A Yes.

6 Q Do you believe they have the right to  
7 defend themselves with a knife?

8 A No.

9 Q Do you believe they have the right to  
10 defend themselves with a firearm?

11 A No, because I haven't seen anything that  
12 warrants that kind of defense.

13 Q You're saying that at all of the CHA  
14 housing properties, there was no violent activity  
15 that would cause someone to need to defend  
16 themselves? You're saying in 20 years, nobody was  
17 ever the subject of a violent incident?

18 A No, I didn't say that.

19 Q Well, you confined it to domestic  
20 violence, so are you saying that in 20 years you  
21 never saw -- you never heard of any violent  
22 incidents outside of the home on CHA property where  
23 somebody would need to defend themselves?

24 A Can you ask that again?

25 Q You're saying in 20 years there was never

HUNTER, et al. v. CORTLAND HOUSING AUTHORITY, et al.  
Carole Preston --- May 8, 2024

42

1 C. Preston

2 a violence incident on CHA property that would  
3 necessitate self-defense?

4 A I don't know. I would imagine there was  
5 but not to the degree where they need a knife or a  
6 gun.

7 Q You did say there were a lot of  
8 domestic-violence incidents, right?

9 A Right, but usually they were handled and  
10 then brought to any attention.

11 Q Let's talk about -- we going to talk about  
12 domestic violence. I do want to ask you one thing  
13 before I pivot to that. Did you ever receive  
14 reports of drug crimes?

15 A Yes.

16 Q A lot?

17 A It was getting worse by the time I left.

18 Q A lot, a little or in between?

19 A In between.

20 Q What kind of drugs?

21 A A lot of marijuana, meth, and I really  
22 don't know. Needles, we would find a lot of  
23 needles, that sort of thing.

24 Q Possession of drugs, sale of drugs or  
25 both?

HUNTER, et al. v. CORTLAND HOUSING AUTHORITY, et al.  
Carole Preston --- May 8, 2024

43

1 C. Preston

2 A Possession.

3 Q Never sale?

4 A Not that I know of.

5 Q Let's go back to domestic violence. Do  
6 you believe that women are often the victims of  
7 domestic violence?

8 A Yes.

9 Q Do you believe that women who are the  
10 victims of domestic violence should be able to  
11 engage in self-defense against their attackers?

12 A Yes.

13 Q Do you believe that women who are the  
14 victims of domestic violence should be able to  
15 defend themselves against attackers using their  
16 hands?

17 A Yes.

18 Q Do you believe that women who are the  
19 victims of domestic violence should be able to  
20 defend themselves against their attacker using a  
21 knife?

22 A I don't know because it depends on what  
23 happens to them.

24 Q Okay. Do you believe that the victim of a  
25 domestic-violence incident whose life is in danger

HUNTER, et al. v. CORTLAND HOUSING AUTHORITY, et al.  
Carole Preston --- May 8, 2024

45

1 C. Preston

2 firearm?

3 MR. HOUSTON: Objection to form.

4 Q You can answer.

5 A Of course I believe somebody should have  
6 the right to defend themselves.

7 Q In your 20 years at CHA, did you ever  
8 receive any reports of rape or sexual assaults?

9 A No.

10 Q Certainly rape and sexual assault are not  
11 allowed on CHA property, correct?

12 MR. HOUSTON: Objection to form.

13 Q The laws of New York State apply to CHA  
14 property, correct?

15 A Yes.

16 Q So rape, sexual assault and domestic  
17 violence are just as illegal on CHA properties as  
18 anywhere else in New York State, correct?

19 A Correct.

20 Q Okay. Well, a woman who is being raped in  
21 their own home should be able to defend themselves,  
22 correct?

23 A Correct.

24 Q And a woman who is being raped in her own  
25 home should be able to defend herself with a knife,

HUNTER, et al. v. CORTLAND HOUSING AUTHORITY, et al.  
Carole Preston --- May 8, 2024

52

1 C. Preston

2 Q Why didn't you think about that? Doesn't  
3 that matter to you?

4 MR. HOUSTON: Objection to form.

5 A Of course it matters. We live in a  
6 relatively safe area, low crime rate.

7 Q You just told me about crime at CHA  
8 property. It certainly wasn't crime-free, was it?

9 A No. It wasn't crime-free but as I said, I  
10 can remember over a couple of dozen cases in almost  
11 20 years.

12 Q We have it on good authority that more  
13 than one CHA tenant over the years has had a  
14 criminal record, that it's actually not a rare thing  
15 for a CHA tenant to have a criminal record; isn't  
16 that true?

17 MR. HOUSTON: Objection to form.

18 A There are some tenants that -- I have to  
19 answer this, correct?

20 MR. HOUSTON: Uh-huh.

21 Q Yes.

22 A Background checks were done and if they  
23 were violent offenders, they had to go through the  
24 criteria, but to say that -- I'm not doing this very  
25 well. If people had criminal backgrounds, it was

HUNTER, et al. v. CORTLAND HOUSING AUTHORITY, et al.  
Carole Preston --- May 8, 2024

53

1 C. Preston

2 possible to get public housing but it depended on  
3 the crime, the severity, the -- how recent they  
4 were. There were a lot of variables.

5 Q I know, but I guess I'm not really asking  
6 about variables. I'm asking you: During your  
7 20 years at CHA, did CHA accept tenants who had  
8 criminal records; yes or no?

9 A Yes.

10 Q Thank you. Did CHA -- during your tenure  
11 at CHA, did CHA ever accept as tenants any  
12 individuals who had committed violent crimes?

13 A Ever?

14 Q Yes.

15 A I don't know.

16 Q Well, okay. What was the limit? In fact,  
17 did CHA have any criteria for excluding tenants?

18 A For excluding tenants?

19 Q Yes. For excluding tenants with criminal  
20 records.

21 A Sex offenders were -- you know, I may not  
22 be remembering this correctly. If you were a  
23 registered sex offender, that was an automatic  
24 denial.

25 Q No registered sex offenders, right?

HUNTER, et al. v. CORTLAND HOUSING AUTHORITY, et al.  
Carole Preston --- May 8, 2024

57

1 C. Preston

2           A     Again, it depends on how long ago the  
3        crimes were. There were so many variables and I  
4        have been out of it for so long.

Q During your 20 years at CHA, did CHA ever accept a convicted murderer as a tenant?

7 A Not to my knowledge.

8                   Q         During your 20 years at CHA, did CHA ever  
9 accept somebody who had been convicted of any  
10 homicide crime as a tenant?

11 A Not to my knowledge.

12 Q During your 20 years at CHA, did CHA  
13 accept anyone who had been convicted of robbery?

14 A Not to my knowledge.

15 Q During your 20 years at CHA, did CHA ever  
16 accept somebody as a tenant who had been convicted  
17 of arson?

18 A Not that I know of.

19 Q During your time at CHA, did CHA ever  
20 accept anyone as a tenant who had been convicted of  
21 any kind of sexual assault?

A Not to my knowledge.

23 Q During your 20 years at CHA, did CHA ever  
24 accept anyone who had been convicted of any drug  
25 offense?

HUNTER, et al. v. CORTLAND HOUSING AUTHORITY, et al.  
Carole Preston --- May 8, 2024

57

1 C. Preston

2 A Again, it depends on how long ago the  
3 crimes were. There were so many variables and I  
4 have been out of it for so long.

5 Q During your 20 years at CHA, did CHA ever  
6 accept a convicted murderer as a tenant?

7 A Not to my knowledge.

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9 accept somebody who had been convicted of any  
10 homicide crime as a tenant?

11 A Not to my knowledge.

12 Q During your 20 years at CHA, did CHA  
13 accept anyone who had been convicted of robbery?

14 A Not to my knowledge.

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16 accept somebody as a tenant who had been convicted  
17 of arson?

18 A Not that I know of.

19 Q During your time at CHA, did CHA ever  
20 accept anyone as a tenant who had been convicted of  
21 any kind of sexual assault?

22 A Not to my knowledge.

23 Q During your 20 years at CHA, did CHA ever  
24 accept anyone who had been convicted of any drug  
25 offense?

HUNTER, et al. v. CORTLAND HOUSING AUTHORITY, et al.  
Carole Preston --- May 8, 2024

58

1 C. Preston

2 A Any drug offense?

3 Q Yes.

4 A Then I would say yes.

5 Q Any drug felonies?

6 A I don't even remember.

7 Q Well, here's what I'm having trouble with,  
8 during your 20 years at CHA, CHA did -- I repeat  
9 did -- accept tenants who had criminal records,  
10 correct?

11 A Yes.

12 Q But we just went through a whole laundry  
13 list of crimes and you said that CHA never accepted  
14 those people. So what kind of crimes were accepted?

15 A It could have been burglary, it could have  
16 been carjacking, it could have been --

17 MR. HOUSTON: Carjacking?

18 A I'm throwing that out there. Kids go for  
19 a joyride in a car, that kind of thing.

20 Q That's not carjacking, that's joyriding.

21 A Okay. Whatever.

22 Q Carjacking is a violent crime.

23 Did you know that burglary is a  
24 felony?

25 A No, I didn't.

HUNTER, et al. v. CORTLAND HOUSING AUTHORITY, et al.  
Carole Preston --- May 8, 2024

59

1 C. Preston

2 Q Did CHA during your time there ever accept  
3 any convicted burglars as tenants?

4 A I don't know. I don't remember.

5 Q During your time at CHA, did CHA ever  
6 accept any felons as tenants?

7 A I don't remember.

8 Q During your time at CHA, was it your  
9 responsibility to review prospective tenants'  
10 criminal records and make decisions about same?

11 A Yes.

12 Q Was it a daily responsibility, a weekly  
13 responsibility or a monthly responsibility?

14 A I would say more like weekly.

15 Q Okay. In your 20 years at CHA, how many  
16 criminal records of prospective tenants do you think  
17 you reviewed?

18 A Hundreds. Honestly, I don't know.

19 Q Is it possible it was thousands; is that  
20 possible?

21 A I don't think it was thousands. I would  
22 say hundreds.

23 Q I guess what I'm having trouble with is  
24 the following: You just testified that a  
25 significant part of your job responsibilities was to

HUNTER, et al. v. CORTLAND HOUSING AUTHORITY, et al.  
Carole Preston --- May 8, 2024

60

1 C. Preston

2 review the criminal records of prospective tenants,  
3 right?

4 A Yes.

5 Q I'm not asking you to tell me, oh, can you  
6 tell me about Mr. Jones in 2012 or Mr. Smith in  
7 2008. I'm asking you in general terms and you're  
8 saying you don't remember what kind of crimes were  
9 accepted, I'm just struggling with that.

10 Are you testifying today that,  
11 despite the fact that this was a huge part of your  
12 job responsibility, that you don't remember any  
13 instances of felons being accepted as tenants?

14 A I don't because if I denied them for  
15 whatever reason -- and it didn't have to be just on  
16 their criminal background, if I denied them, they  
17 had the right to a fair hearing which would go to  
18 upper management and they could then decide the  
19 cases.

20 Q I won't linger on this point because you  
21 have answered it, but I want to be sure, yes or no,  
22 yes or no, during your 20 years at CHA, did CHA  
23 accept as a tenant a felon?

24 A I don't know. I honestly don't know.

25 Q I will accept your answer.